

SECOND REGULAR SESSION

# SENATE BILL NO. 1043

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR GROSS.

Read 1st time January 12, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 21.795, 301.144, and 301.2999, RSMo, and to enact in lieu thereof six new sections relating to specialized license plates.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 21.795, 301.144, and 301.2999, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 21.795, 301.144, 301.2999, 301.3150, 301.3152, and 301.3154, to read as follows:

21.795. 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Transportation Oversight" to be composed of seven members of the standing transportation committees of both the senate and the house of representatives and three nonvoting ex officio members. Of the fourteen members to be appointed to the joint committee, the seven senate members of the joint committee shall be appointed by the president pro tem of the senate and minority leader of the senate and the seven house members shall be appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives. No major party shall be represented by more than four members from the house of representatives nor more than four members from the senate. The ex officio members shall be the state auditor, the director of the oversight division of the committee on legislative research, and the commissioner of the office of administration or the designee of such auditor, director or commissioner. The joint committee shall be chaired jointly by both chairs of the senate and house transportation committees. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members, other than the ex officio members, shall be required for the determination of any matter within the committee's duties.

2. The transportation inspector general shall be appointed by majority vote of a group consisting of the speaker of the house of representatives, the minority floor leader of the

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

house of representatives, the president pro tempore of the senate, and the minority floor leader of the senate. It shall be the duty of the inspector general to serve as the executive director of the joint committee on transportation oversight. The compensation of the inspector general and other personnel shall be paid from the joint contingent fund or jointly from the senate and house contingent funds until an appropriation is made therefor. No funds from highway user fees or other funds allocated for the operation of the department of transportation shall be used for the compensation of the inspector general and his or her staff. The joint committee inspector general initially appointed pursuant to this section shall take office January 1, 2004, for a term ending June 30, 2005. Subsequent joint committee on transportation oversight directors shall be appointed for five-year terms, beginning July 1, 2005. Any joint committee on transportation oversight inspector general whose term is expiring shall be eligible for reappointment. The inspector general of the joint committee on transportation oversight shall:

(1) Be qualified by training or experience in transportation policy, management of transportation organizations, accounting, auditing, financial analysis, law, management analysis, or public administration;

(2) Report to and be under the general supervision of the joint committee. The joint committee on transportation oversight shall, by a majority vote, direct the inspector general to perform specific investigations, reviews, audits, or other studies of the state department of transportation, in which instance the director shall report the findings and recommendations directly to the joint committee on transportation oversight. All investigations, reviews, audits, or other studies performed by the director shall be conducted so that the general assembly can procure information to assist it in formulating transportation legislation and policy for this state;

(3) Receive and process citizen complaints relating to transportation issues. The inspector general shall, when necessary, submit a written complaint report to the joint committee on transportation oversight and the highways and transportation commission. The complaint report shall contain the date, time, nature of the complaint, and any immediate facts and circumstances surrounding the initial report of the complaint. The inspector general shall investigate a citizen complaint if he or she is directed to do so by a majority of the joint committee on transportation oversight;

(4) Investigate complaints from current and former employees of the department of transportation if the inspector general receives information from an employee which shows:

- (a) The department is violating a law, rule, or regulation;
- (b) Gross mismanagement by department officers;
- (c) Waste of funds by the department;

(d) That the department is engaging in activities which pose a danger to public health and safety;

(5) Maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the inspector general except insofar as disclosures may be necessary to enable the inspector general to carry out duties and to support recommendations;

(6) Maintain records of all investigations conducted, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, or other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. Records of investigations by the inspector general shall be an "investigative report" of law enforcement agency pursuant to the provisions of section 610.100, RSMo. As provided in such section, such records shall be a closed record until the investigation becomes inactive. If the inspector general refers a violation of law to the appropriate prosecuting attorney or the attorney general, such records shall be transmitted with the referral. If the inspector general finds no violation of law or determines not to refer the subject of the investigation to the appropriate prosecuting attorney or the attorney general regarding matters referred to the appropriate prosecuting attorney or the attorney general and the statute of limitations expires without any action being filed, the record shall remain closed. As provided in section 610.100, RSMo, any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of information in the records of the inspector general which would otherwise be closed pursuant to this section. Any disclosure of records by the inspector general in violation of this section shall be grounds for a suit brought by any individual, person, or corporation to recover damages, and upon award to the plaintiff reasonable attorney's fees.

3. The department of transportation shall submit a written report prior to November tenth of each year to the governor, lieutenant governor, and every member of the senate and house of representatives. The report shall be posted to the department's Internet website so that general assembly members may elect to access a copy of the report electronically. The written report shall contain the following:

(1) A comprehensive financial report of all funds for the preceding state fiscal year which shall include a report by independent certified public accountants, selected by the commissioner of the office of administration, attesting that the financial statements present fairly the financial position of the department in conformity with generally accepted government accounting principles. This report shall include amounts of:

(a) State revenues by sources, including all new state revenue derived from highway users which results from action of the general assembly or voter-approved measures taken after August 28, 2003, and projects funded in whole or in part from such new state revenue, and amounts of federal revenues by source;

(b) Any other revenues available to the department by source;

(c) Funds appropriated, the amount the department has budgeted and expended for the following: contracts, right-of-way purchases, preliminary and construction engineering, maintenance operations and administration;

(d) Total state and federal revenue compared to the revenue estimate in the fifteen-year highway plan as adopted in 1992.

All expenditures made by, or on behalf of, the department for personal services including fringe benefits, all categories of expense and equipment, real estate and capital improvements shall be assigned to the categories listed in this subdivision in conformity with generally accepted government accounting principles;

(2) A detailed explanation of the methods or criteria employed to select construction projects, including a listing of any new or reprioritized projects not mentioned in a previous report, and an explanation as to how the new or reprioritized projects meet the selection methods or criteria;

(3) The proposed allocation and expenditure of moneys and the proposed work plan for the current fiscal year, at least the next four years, and for any period of time expressed in any public transportation plan approved by either the general assembly or by the voters of Missouri. This proposed allocation and expenditure of moneys shall include the amounts of proposed allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this subsection;

(4) The amounts which were planned, estimated and expended for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation in the preceding state fiscal year and amounts which have been planned, estimated or expended by project for construction work in progress;

(5) The current status as to completion, by project, of the fifteen-year road and bridge program adopted in 1992. The first written report submitted pursuant to this section shall include the original cost estimate, updated estimate and final completed cost by project. Each written report submitted thereafter shall include the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project;

(6) The reasons for cost increases or decreases exceeding five million dollars or ten percent relative to cost estimates and final completed costs for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation completed in the preceding state fiscal year. Cost increases or decreases shall be determined by comparing the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project. The reasons shall include the amounts resulting from inflation, departmentwide design changes, changes in project scope, federal mandates, or other factors;

(7) Specific recommendations for any statutory or regulatory changes necessary for the efficient and effective operation of the department;

(8) An accounting of the total amount of state, federal and earmarked federal highway funds expended in each district of the department of transportation; and

(9) Any further information specifically requested by the joint committee on transportation oversight.

4. Prior to December first of each year, the committee shall hold an annual meeting and call before its members, officials or employees of the state highways and transportation commission or department of transportation, as determined by the committee, for the sole purpose of receiving and examining the report required pursuant to subsection 3 of this section. The joint committee may also call before its members at the annual meeting, the inspector general of the joint committee on transportation oversight for purposes authorized in this section. The committee shall not have the power to modify projects or priorities of the state highways and transportation commission or department of transportation. The committee may make recommendations to the state highways and transportation commission or the department of transportation. Disposition of those recommendations shall be reported by the commission or the department to the joint committee on transportation oversight.

5. In addition to the annual meeting required by subsection 4 of this section, the committee shall meet two times each year. The co-chairs of the committee shall establish an agenda for each meeting that may include, but not be limited to, the following items to be discussed with the committee members throughout the year during the scheduled meeting:

(1) Presentation of a prioritized plan for all modes of transportation;

(2) Discussion of department efficiencies and expenditure of cost-savings within the department;

(3) Presentation of a status report on department of transportation revenues and expenditures, including a detailed summary of projects funded by new state revenue as provided in paragraph (a) of subdivision (1) of subsection 3 of this section;

(4) Review of any report from the joint committee inspector general; and

(5) Implementation of any actions as may be deemed necessary by the committee as authorized by law.

The co-chairs of the committee may call special meetings of the committee with ten days' notice to the members of the committee, the director of the department of transportation, and the department of transportation.

**6. The committee shall also review for approval or denial all applications for the development of specialty plates submitted to it by the department of revenue. The committee shall approve such application by simple majority. The committee shall notify the director of the department of revenue upon approval or denial of an application for the development of a specialty plate.**

7. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023, RSMo.

301.144. 1. The director of revenue shall establish and issue special personalized license plates containing letters or numbers or combinations of letters and numbers[, not to exceed six characters in length]. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Any person desiring to obtain a special personalized license plate for any motor vehicle other than a commercial motor vehicle licensed for more than twelve thousand pounds shall apply to the director of revenue on a form provided by the director and shall pay a fee of [fifteen] **twenty-five** dollars in addition to the regular registration fees. The director of revenue shall issue rules and regulations setting the standards and establishing the procedure for application for and issuance of the special personalized license plates and shall provide a deadline each year for the applications. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void. No two owners shall be issued identical plates. An owner shall make a new application and pay a new fee each year such owner desires to obtain or retain special personalized license plates; however, notwithstanding the provisions of subsection 8 of section 301.130 to the contrary, the director shall allow the special personalized license plates to be replaced with new plates every three years without any additional charge, above the fee established in this section, to the renewal applicant. Any person currently in possession of an approved personalized license plate shall have first priority on that particular plate for each of the following years that timely and appropriate application is made.

2. No personalized license plates shall be issued containing any letters, numbers or combination of letters and numbers which are obscene, profane, patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found. The director may recall any personalized license plates, including those issued prior to August 28, 1992, if the director determines that the plates are obscene, profane, patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or

decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found. Where the director recalls such plates pursuant to the provisions of this subsection, the director shall reissue personalized license plates to the owner of the motor vehicle for which they were issued at no charge, if the new plates proposed by the owner of the motor vehicle meet the standards established pursuant to this section. The director shall not apply the provisions of this statute in a way that violates the Missouri or United States Constitutions as interpreted by the courts with controlling authority in the state of Missouri. The primary purpose of motor vehicle licence plates is to identify motor vehicles. Nothing in the issuance of a personalized license plate creates a designated or limited public forum. Nothing contained in this subsection shall be interpreted to prohibit the use of license plates, which are no longer valid for registration purposes, as collector's items or for decorative purposes.

3. The director may also establish categories of special license plates from which license plates may be issued. Any such person, other than a person exempted from the additional fee pursuant to subsection 6 of this section, that desires a personalized special license plate from any such category shall pay the same additional fee and make the same kind of application as that required by subsection 1 of this section, and the director shall issue such plates in the same manner as other personalized special license plates are issued.

4. The director of revenue shall issue to residents of the state of Missouri who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application and upon payment of the additional fee specified in subsection 1 of this section, except for a person exempted from the additional fee pursuant to subsection 6 of this section, personalized special license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission to the applicant. The application shall be accompanied by an affidavit stating that the applicant has an unrevoked and unexpired amateur radio license issued by the Federal Communications Commission and the official radio call letters assigned by the Federal Communications Commission to the applicant.

5. Notwithstanding any other provision to the contrary, any business that repossesses motor vehicles or trailers and sells or otherwise disposes of them shall be issued a placard displaying the word "Repossessed", provided such business pays the fees presently required of a manufacturer, distributor, or dealer in subsection 1 of section 301.253. Such placard shall bear a number and shall be in such form as the director of revenue shall determine, and shall be only used for demonstrations when displayed substantially as provided for number plates on the rear of the motor vehicle or trailer.

6. Notwithstanding any provision of law to the contrary, any person who has retired from any branch of the United States armed forces or reserves, the United States Coast

Guard or reserve, the United States Merchant Marines or reserve, the National Guard, or any subdivision of any such services shall be exempt from the additional fee required for personalized license plates issued pursuant to section 301.441. As used in this subsection, "retired" means having served twenty or more years in the appropriate branch of service and having received an honorable discharge.

301.2999. 1. No specialized license plate shall be issued after January 1, 2002, by the director of revenue which proposes to raise revenue or funds for an organization which authorizes the use of its emblem for a fee unless such organization:

(1) Is a governmental entity; or

(2) Is an organization registered pursuant to section 501(c) of the 1986 Internal Revenue Code, as amended, or an equivalent law which applies to such not-for-profit entity.

2. Any organization which raises revenues or funds through the sponsorship of specialized license plates issued pursuant to the provisions of this chapter enacted prior to January 1, 2002, shall have until January 1, 2004, to comply with the provisions of this section. The director shall verify that all organizations that are paid fees for the use of their emblems for specialized license plates are complying with the provisions of this section. The director shall require all organizations which receive revenues or funds for the use of their emblems to verify their status as a governmental entity or a qualified not-for-profit organization as provided in subsection 1 of this section, in a format prescribed by the director. Any specialized license plates issued prior to January 1, 2004, shall remain valid for the period in which they were registered, regardless of the status of the sponsoring organization.

3. Any moneys received by an organization authorizing the use of its emblem or insignia for a specialized license plate shall only be used by such organization to carry out the organization's charitable mission. Such moneys shall not be used for salaries or any administrative costs of the organization. No individual member of any organization authorizing the use of its emblem or insignia for a specialized license plate shall derive any personal pecuniary gain from any fees the organization collects.

4. The director of revenue shall not authorize the manufacture of the material to produce such specialized license plates with the individual seal, logo, or emblem until such time the director has received one hundred applications for such plates. [An organization shall be exempt from the provisions of this subsection if it deposits with the department of revenue the actual cost of producing the initial issuance of such plates and the director receives at least ten applications for such plates.]

5. The provisions of this section shall not apply to any special license plates which bears the emblem or insignia of a branch of the U.S. military or a military organization.

**301.3150. 1. An organization, other than an organization seeking a specialty military license plate, that seeks authorization to establish a new specialty license**



plate shall initially petition the department of revenue by submitting the following:

(1) An application in a form prescribed by the director for the particular specialty license plate being sought, describing the proposed specialty license plate in general terms. The application may contain written testimony for support of this specialty plate;

(2) Each application submitted pursuant to this section shall be accompanied by a minimum of one hundred applications and the specialty plate fee from eligible applicants who plan to purchase the specialty plate if the specialty plate is approved pursuant to this section;

(3) An application fee, not to exceed five thousand dollars, to defray the department's cost for reviewing the application and developing the specialty license plate, if authorized; and

(4) All moneys received by the Missouri department of revenue, excluding the twenty-five dollar specialty license plate fee authorized by this section, for the reviewing and development of specialty plates shall be deposited in the state treasury to the credit of the "Department of Revenue Specialty Plate Fund" which is hereby created. The state treasurer shall be custodian of the fund and shall make disbursements from the funds requested by the Missouri director of revenue for personal services, expenses, and equipment required to prepare, review, develop, and disseminate a new specialty plate and process the one hundred applications and to refund deposits for the application of such specialty plate, if the application is not approved by the joint committee on transportation oversight and for no other purpose.

2. At the end of each state fiscal year, the Missouri director of revenue shall:

(1) Determine the amount of all moneys deposited into the department of revenue specialty plate fund;

(2) Determine the amount of the disbursements from the department of revenue specialty plate fund which were made to produce the specialty plate and process the one hundred applications; and

(3) Subtract the amount of disbursements from the income figure referred to in subdivision (1) of this subsection and deliver this figure to the state treasurer.

3. The state treasurer shall transfer an amount of money equal to the figure provided by the director of revenue from the department of revenue specialty plate fund to the state highway department fund. An unexpended balance in the department of revenue specialty plate fund at the end of the biennium not exceeding twenty-five thousand dollars shall be exempt from the provisions of

section 33.080, RSMo, relating to transfer of unexpended balances to the general revenue fund.

4. The documents and fees required pursuant to this section shall be submitted to the department of revenue by July first prior to the next regular session of the general assembly to be approved or denied by the joint committee on transportation oversight during that legislative session.

5. The department of revenue shall give notice of any proposed specialty plate in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the specialty plate on the department's official public web site, and making available copies of the specialty plate application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

6. Adequate notice conforming with all of the requirements of subsection 5 of this section shall be given not less than four weeks, exclusive of weekends and holidays when the facility is closed, after the submission of the application by the organization to the department of revenue. Written or electronic testimony in support or opposition of the proposed specialty plate shall be submitted to the department of revenue by November thirtieth of the year of filing of the original proposal. All written testimony shall contain the printed name, signature, address, phone number, and e-mail address, if applicable, of the individual giving the testimony.

7. The department of revenue shall submit for approval all applications for the development of specialty plates to the joint committee on transportation oversight during a regular session of the general assembly for approval.

8. If the specialty license plate requested by an organization is approved by the joint committee on transportation oversight, the organization shall submit the proposed art design for the specialty license plate to the department as soon as practicable, but no later than sixty days after the approval of the specialty license plate. If the specialty license plate requested by the organization is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the requesting organization along with all specialty plate fees submitted.

9. An emblem-use authorization fee may be charged by the organization prior to the issuance of an approved specialty plate. The organization's specialty plate proposal approved by the joint committee on transportation oversight shall state what fee is required to obtain such statement and if such fee is required

annually. An organization applying for specialty plates shall authorize the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. Any contribution to the organization derived from the emblem-use contribution, except reasonable administrative costs, shall be used solely for the purposes of the organization. Any member of the organization may annually apply for the use of the emblem, if applicable.

10. The department shall begin production and distribution of each new specialty license plate within one year after approval of the specialty license plate by the joint committee on transportation oversight.

11. The department shall issue a specialty license plate to the owner who meets the requirements for issuance of the specialty plate for any motor vehicle such owner owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

12. Each new or renewed application for an approved specialty license plate shall be made to the department of revenue, accompanied by an additional fee of twenty-five dollars and the appropriate emblem-use authorization statement.

13. The appropriate registration fees, processing fees and documents otherwise required for the issuance of registration of the motor vehicle as set forth by law must be submitted at the time the specialty plates are actually issued and renewed. However, no additional fee for the personalization of this plate shall be charged.

14. Once a specialty plate design is approved, a request for such plate may be made any time during a registration period. If a request is made for a specialty license plate to replace a current valid license plate, all documentation, credits, and fees provided for in this chapter when replacing a current license plate shall apply.

15. A vehicle owner who was previously issued a plate with an organization emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration if required, shall be issued a new plate which does not bear the organization's emblem, as otherwise provided by law.

16. Specialty license plates shall bear a design approved by the organization submitting the original application for approval by the joint committee on transportation oversight. The design shall be within the plate area prescribed by the director of revenue, and the designated organization's name or slogan shall be in place of the words "SHOW-ME STATE". Such license plates shall be made with

fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130 and as provided in this section. In addition to a design, the specialty license plates shall be in accordance with criteria and plate design set forth in this chapter.

17. The department is authorized to discontinue the issuance of a specialty license plate if the organization has stopped providing services and emblem-use authorization statements are no longer being issued by the organization. Such organizations shall notify the department immediately to discontinue the issuance of a specialty plate.

18. The organization that requested the specialty license plate shall not redesign the specialty personalized license plate unless such organization pays the director in advance all redesigned plate fees and all owners of such plates pay for the replacement of the existing specialty plate. All other applicable license plate fees in accordance with this chapter shall be required.

301.3152. Any person or organization who has received a notice of denial of application for development of a specialty plate may make a request within fifteen days of receipt of the notice for a review of the committee's determination at a hearing before the committee at a time deemed appropriate.

301.3154. Notwithstanding the provisions of chapter 301 to the contrary, all specialty license plate fees shall be twenty-five dollars in addition to registration fees. The provisions of this section shall not apply to specialty military license plates. The fees for specialty military license plates shall be assessed as provided for by the statute creating such license plate.

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